Remarks

Claims 1-20 are pending in the application.

Claims 1-5 and 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Combs et al. (U.S. Patent No. 6,751,417B1, hereinafter "Combs").

Claims 6-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Combs.

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Entry of this Amendment is proper under 37 CFR § 1.116 since the amendment: (a) places the application in condition for allowance for the reasons discussed herein; (b) does not raise any new issue requiring further search and/or consideration since the amendments amplify issues previously discussed throughout prosecution; (c) satisfies a requirement of form asserted in the previous Office Action; (d) does not present any additional claims without canceling a corresponding number of finally rejected claims; or (e) places the application in better form for appeal, should an appeal be necessary. The amendment is necessary and was not earlier presented because it is made in response to arguments raised in the final rejection. Entry of the amendment is thus respectfully requested.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewriting to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Rejection Under 35 U.S.C. 102

Claims 1-5 and 16-20

Claims 1-5 and 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Combs. The rejection is traversed.

As previously stated in response to non-final rejection dated December 14, 2006: "Combs does not teach each and every element recited in claims 1, 16 or 18 because the cited portions of Combs (e.g., Figs. 1 and 3-4) are not relevant to communications within an access network, which is the environment that claims 1, 16 and 18 pertain to." Although, Applicant disagrees with Examiner for not giving "access network" any patentable weight, asserting that "access network" is not supported in the specification, and reasons against Applicant's arguments to the contrary, Applicant has amended the claims to overcome Examiner's rejection and place the claims in condition for appeal.

In response to Examiner's rejection, Applicant has amended the claims to replace "link" with "path" and make clear Applicant's invention is directed toward an end-to-end passive optical downstream path. As amended, independent claims 1, 16, and 18 recite:

> 1. In an access network, a method for the communication of services to and from customer premises, comprising:

transmitting services to said customer premises using a end-to-end passive optical downstream path; and

receiving services from said customer premises using an active optical upstream path. (emphasis added).

16. An apparatus for the communication of services to and from customer premises in an access network, comprising:

a means for splitting downstream services being transmitted through a end-to-end passive optical path intended for said customer premises;

at least one means for receiving services comprising optical signals from said customer premises intended for upstream transmission; and

at least one means for aggregating and multiplexing upstream traffic. (emphasis added).

18. A passive/active access network for the communication of services to and from customer premises, comprising:

a central office;

at least one customer premise; and

an active/passive access unit for providing communication between said central office and said at least one customer premise, wherein services from said central office intended for said at least one customer premise are communicated to said at least one customer premise using a end-to-end passive optical downstream path and services from said at least one customer premise intended for said central office are communicated to said central office using an active optical upstream path. (emphasis added).

Support for the aforesaid amendments is found in at least Applicant's page 4, lines 12-17 and page 5, lines 4-6 of the specification, as filed. An embodiment of Applicant's claimed invention teaches optical downstream communication from a central office to at least one customer premises via a end-to-end passive optical path comprising of optical splitters. (See Applicant's specification, p. 5, lines 5-6).

Combs teaches transmitting signals from a Head-end to a Mux-Node to a Mini-Fiber Node (mFN) to one or more End-Users. (See FIG. 1; Col. 6, lines 25-27). The "mFNs receive[] the analog and digital signals, modulates these signals onto appropriate RF bands and transmits the signals to the end-users via the passive wired connection." (See Summary of the Invention Col. 2, line 17-20). A modulator as described in Combs, and commonly known in the field of communications, is not a passive component. Since, Combs states that a Mini-Fiber Node is not a passive device. It therefore must follow

that the path from Head-end to End-user is not a end-to-end passive path. Unlike Applicant's claimed invention.

Therefore, Combs fails to disclose each and every element of Applicants' claimed invention, and independent claims 1, 16, and 18. Since dependent claims 2-5, 17, and 19-20 depend from the respective independent claims and include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Combs under 35 U.S.C. 102(e).

Accordingly, claims 1-5 and 16-20 are patentable under 35 U.S.C. 102(e) over Combs. Therefore, the rejection should be withdrawn.

Rejection Under 35 U.S.C. 103(a)

Claims 6-15

Claims 6-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Combs. The rejection is traversed.

For at least the reasons discussed above in response to the Examiner's 35 U.S.C. 102(e) rejection of claims 1, 16 and 18, Combs fails to teach or suggest Applicants' invention as a whole. Specifically, for the passive path portion of Applicant's communication system, Combs teaches only active communication paths between the Head-end and the End-users via an active component, the mFN.

Combs fails to teach or suggest communication of services to and from customer premises in an access network, including "transmitting services to said customer premises using a end-to-end passive optical downstream path; and receiving services from said customer premises using an active optical upstream path", as recited in independent claim 1. Thus, independent claim 1 is not obvious over Combs, and is patentable under 35 U.S.C. 103(a). Further, independent claim 8, recites similar limitations, as such it to is not obvious over Combs.

Since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Combs under 35 U.S.C. 103.

Accordingly, dependent claims 6-7 and 9-15, which depend directly or indirectly from claims 1 or 8, are also patentable under 35 U.S.C. 103(a) over Combs. Therefore, the rejection should be withdrawn.

Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

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